



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2021-0775; FRL-9330-01-R8]

# **Approval and Promulgation of Implementation Plans; Utah; Emissions Statement Rule and Nonattainment New Source Review Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standard for the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front Nonattainment Areas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve state implementation plan (SIP) revisions submitted by the State of Utah. The revisions fulfill the emissions statement and nonattainment new source review (NNSR) requirements for the 2015 8-hour ozone national ambient air quality standard (NAAQS) for the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front nonattainment areas (NAAs). Utah submitted an emissions statement rule revision and a separate NNSR certification to meet, in part, the nonattainment requirements for Marginal ozone NAAs under the 2015 8-hour ozone NAAQS. The State's submission of the emissions statement rule revision also included revisions to emissions reporting requirements for stationary sources, which will be addressed in this proposed rule as well. The EPA is taking this action pursuant to sections 110, 172, and 182 of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2021-0775, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed

from [www.regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in [www.regulations.gov](http://www.regulations.gov). To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

**FOR FURTHER INFORMATION CONTACT:** Matthew Lang, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (303) 312-6709, email address: [lang.matthew@epa.gov](mailto:lang.matthew@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

## **I. Background**

Ground-level ozone is formed when nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) react in the presence of sunlight. Referred to as ozone precursors, these two

pollutants are emitted by many types of pollution sources, including motor vehicles, power plants, industrial facilities, and area wide sources, such as consumer products and lawn and garden equipment. Scientific evidence indicates that adverse public health effects may occur following exposure to ozone pollution. These effects are more pronounced in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases. In 1979, in response to this scientific evidence, the EPA promulgated the first ozone NAAQS, the 0.12 part per million (ppm) 1-hour ozone NAAQS.<sup>1</sup> The EPA had previously promulgated a NAAQS for total photochemical oxidants.

On July 18, 1997, the EPA promulgated a revised ozone NAAQS of 0.08 ppm, averaged over eight hours.<sup>2</sup> The EPA determined this standard to be more protective of public health than the previous 1979 1-hour ozone standard. In 2008, the EPA revised the 8-hour ozone NAAQS from 0.08 to 0.075 ppm.<sup>3</sup> On October 26, 2015, the EPA again strengthened the 8-hour ozone NAAQS to 0.070 ppm, based on extensive scientific evidence about ozone's effects on public health and welfare.<sup>4</sup> Effective August 3, 2018, the EPA designated the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front areas as Marginal nonattainment for the more stringent 2015 8-hour ozone NAAQS.<sup>5</sup>

The Uinta Basin NAA is comprised of portions of Duchesne and Uintah Counties. The Northern Wasatch Front NAA includes Salt Lake, Davis, and portions of Weber and Tooele Counties. The Southern Wasatch Front NAA is comprised of only a portion of Utah County.

Under section 182(a)(3)(B) of the CAA, Utah is required to implement an emissions statement rule in its Marginal NAAs that requires the owner or operator of each stationary source of NO<sub>x</sub> or VOCs to provide the state with an annual statement showing the actual

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<sup>1</sup> Revisions to the National Ambient Air Quality Standards for Photochemical Oxidants, 44 FR 8202 (Feb. 8, 1979).

<sup>2</sup> National Ambient Air Quality Standards for Ozone, 62 FR 38856.

<sup>3</sup> National Ambient Air Quality Standards for Ozone, 73 FR 16436 (March 27, 2008).

<sup>4</sup> National Ambient Air Quality Standards for Ozone, 80 FR 65292.

<sup>5</sup> Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018).

emissions of NO<sub>x</sub> and VOCs from the source.<sup>6</sup> This requirement may be waived for any class or category of stationary sources which emit less than 25 tons per year of NO<sub>x</sub> or VOCs if the state includes these emissions in the base year or periodic emissions inventories.<sup>7</sup> Under section 172(c)(5) and 172(b) of the CAA, Utah is required to have implemented a NNSR permit program within three years from the effective date of designation.<sup>8</sup> In addition to these two requirements, Utah is required to submit a base year emissions inventory of NO<sub>x</sub> and VOCs for its Marginal NAAs under section 182(a)(1) of the CAA.<sup>9</sup> These three requirements together constitute the Marginal SIP. EPA has previously approved Utah's base year emissions inventory in the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front NAAs.<sup>10</sup> With the proposed approval of the State's emissions statement rule revisions and NNSR certification, which are the subject of this action, Utah will have met all requirements for its Marginal NAAs under the 2015 8-hour ozone NAAQS.

## **II. Summary of SIP Revision**

### *A. Emission Inventories Rule Revision*

On November 3, 2020, the Utah Division of Air Quality (UDAQ) submitted a SIP revision titled "R307-150. Permit: Emission Inventories" which includes provisions to satisfy the emissions statement requirement under CAA section 182(a)(3)(B).<sup>11</sup> Utah met the reasonable notice and public hearing requirements of CAA section 110(a) for the revision to its emissions inventory requirements through reasonable notice posted on July 1, 2020, and notice of a public hearing for August 3, 2020.<sup>12</sup> Utah's emissions inventory SIP revision describes two changes to Rule R307-150 of the Utah Administrative Code (UAC). The first change converts summary-

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<sup>6</sup> 42 U.S.C. 7511a(a)(3)(B)(i)

<sup>7</sup> 42 U.S.C. 7511a(a)(3)(B)(ii)

<sup>8</sup> Id. 7502(c)(5); Id. 7502(b).

<sup>9</sup> Id. 7511a(a)(1).

<sup>10</sup> Approval and Promulgation of Implementation Plans; Utah; 2017 Base Year Inventories for the 2015 8-Hour Ozone National Ambient Air Quality Standard for the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front Nonattainment Areas, 86 FR 35404 (July 7, 2021).

<sup>11</sup> Letter dated October 28, 2020, from Gary R. Herbert, Governor, State of Utah, to Gregory Sopkin, Regional Administrator, EPA, Region 8.

<sup>12</sup> Utah, Utah Administrative Documentation, R307-150. Permit: Emission Inventories, November 2020 ("UT Emissions Inventory SIP Revision").

only emissions inventory reports to detailed reports and the second introduces reporting requirements specific to sources in ozone NAAs. Additional minor clerical revisions that do not affect the substance of the requirements of the rule were made throughout Rule R307-150 and are also being proposed for approval except for those in Section R307-150-8 as well as those in Subsection R307-150-3(4) which contain revisions that have not been incorporated into the Utah SIP.<sup>13</sup> The clerical revisions that are included in these unincorporated sections of Rule R307-150 will be addressed in a future action.

#### 1. Conversion of Summary-only to Detailed Emissions Inventory Reporting

The first change of Utah's emissions inventory SIP submittal requires that all facilities submit detailed inventory data which was accomplished through removal of Section R307-150-7 and Subsection R307-150-3(4) regarding its applicability as well as the addition of Subsection R307-150-3(3)(d), effective September 3, 2020.<sup>14</sup> Previously, Section R307-150-7 required certain facilities to only submit facility totals for each pollutant while other facilities were required to report permitted equipment-level information.<sup>15</sup> The revision removes Section R307-150-7 and Subsection R307-150-3(4) regarding its applicability while adding Subsection R307-150-3(3)(d) to require Part 70 sources not included in Subsections R307-150-3(2) and R307-150-3(3)(a)-(c) to submit detailed inventory data as specified by Section R307-150-6.<sup>16</sup>

#### 2. Annual Ozone Emissions Statements

The other change included in Utah's emissions inventory SIP revisions adds Section R307-150-9 entitled "Annual Ozone Emission Statement" and Subsection R307-150-3(5) regarding its applicability, effective September 3, 2020. This revision requires sources to submit an annual ozone emissions statement to UDAQ by April 15 showing emissions of NO<sub>x</sub> and

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<sup>13</sup> When we describe changes as clerical in this proposed action, we are referring to changes such as section renumbering; alphabetizing of definitions; minor grammatical, editorial, and typographical revisions; and changes in capitalization.

<sup>14</sup> UT Emissions Inventory SIP Revision at 69, 73, 75, 97.

<sup>15</sup> Id. at 69.

<sup>16</sup> Id. at 73, 75.

VOCs from the prior year, with the first such statement having been due in 2021.<sup>17</sup> As specified in the SIP revision, which adds Subsection R307-150-3(5) regarding the annual ozone emissions statement rule applicability, this rule applies to stationary sources in designated ozone nonattainment areas that have the potential to emit greater than 25 tons per year of NO<sub>x</sub> or VOCs.<sup>18</sup>

### *B. NNSR Certification*

On August 2, 2021, UDAQ submitted a SIP revision certifying that Utah's existing NNSR permit program fulfills the requirements under CAA section 172(c)(5).<sup>19</sup> Utah met the requirements of CAA section 110(a) for the SIP revision certifying its existing NNSR permit program through reasonable notice posted on May 28, 2021 and notice of a public hearing for July 1, 2021.<sup>20</sup>

NNSR permit program requirements were adopted for the 2015 ozone NAAQS at 40 CFR 51.1314 by the SIP Requirements Rule implementing the 2015 8-hour ozone NAAQS.<sup>21</sup> The minimum SIP requirements for NNSR permitting programs for the 2015 8-hour ozone NAAQS are located at 40 CFR 51.165.<sup>22</sup> The SIP for each ozone nonattainment area must contain NNSR provisions that:

- Set major source thresholds for NO<sub>x</sub> and VOCs pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2);
- Classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3);

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<sup>17</sup> Id. at 76.

<sup>18</sup> Id. at 73.

<sup>19</sup> Submittal with letter dated July 29, 2021, from Kimberly Shelley, Executive Director, Utah Department of Environmental Quality, to Debra Thomas, Acting Regional Administrator, EPA, Region 8 ("UT NNSR Certification").

<sup>20</sup> UT NNSR Certification at 4.

<sup>21</sup> Final Rule, Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements, 83 FR 62998 (Dec. 6, 2018).

<sup>22</sup> 40 CFR 51.1314 includes new source review requirements for the 2015 Ozone NAAQS with reference to specific requirements at 40 CFR 51.165.

- Consider any significant net emissions increase of NO<sub>x</sub> as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E);
- Consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F);
- Set significant emissions rates for VOC and NO<sub>x</sub> as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E);
- Contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1)–(2);
- Provide that the requirements applicable to VOC also apply to NO<sub>x</sub> pursuant to 40 CFR 51.165(a)(8); and
- Set offset ratios for VOC and NO<sub>x</sub> pursuant to 40 CFR 51.165(a)(9)(ii)–(iv).<sup>23</sup>

Utah's NNSR SIP Revision certifies that Utah's existing NNSR permit program, applicable to the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front NAAs under the 2015 8-hour ozone NAAQS, is at least as stringent as the minimum requirements for NNSR permitting programs for the ozone NAAQS at 40 CFR 51.165.<sup>24</sup> Utah's SIP-approved NNSR program, as established in UAC R307-403, incorporates by reference the definitions at 40 CFR 51.165(a)(1).<sup>25</sup>

### **III. Proposed Action**

We are proposing to approve the SIP revision submitted by Utah which included changes to R307-150 concerning the level of detail of emissions inventory data reported by certain sources as well as implementation of an annual ozone emissions statement rule for stationary sources in ozone NAAs. Additionally, we are proposing to approve the SIP revision submitted by Utah certifying that the State's previously approved NNSR permit program meets the

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<sup>23</sup> 40 CFR 51.165.

<sup>24</sup> UT NNSR Certification at 6.

<sup>25</sup> UAC R307-403-1(3)

requirement stemming from the Marginal ozone nonattainment designations of the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front areas. We are proposing to approve the revisions because they were prepared in accordance with the requirements in sections 182(a)(3)(B), 172(c)(5) and 172(b) of the CAA. The EPA is soliciting public comments on the issues discussed in this document. The EPA will consider these comments before taking final action.

#### **IV. Incorporation by Reference**

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the UDAQ rules regarding stationary source reporting requirements for emission inventories discussed in Sections II.A.1 and II.A.2 of this preamble. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);



- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: January 26, 2022.

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KC Becker  
Regional Administrator,  
Region 8.

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